



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

May 10, 1991

Mr. Mark T. Sokolow  
City Attorney  
City of League City  
300 West Walker  
League City, Texas 77573-3898

OR91-211

Dear Mr. Sokolow:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. The requests you submitted to this office in regard to that information were assigned ID Nos. 11972 (Carter), 12002 (Dolcefino),<sup>1</sup> 12007 (McPherson), 12083 (Rendon), 12099 (Curry), 12219 (Headley), and 12357 (Book, KTRH, and Villhard).

The information in question is a background report on a private business that was prepared for the city by private investigators. By letter dated April 9, 1991, this office issued an open records ruling in regard to two of the requests for the report.<sup>2</sup> The ruling rejected the city's contention that the report was not public information for purposes of the Open Records Act. The ruling also concluded that the report could not be withheld under section 3(a)(4) or section 3(a)(7) of the act. By letter of April 10, 1991, the city's lawyer urged that we also consider whether the report could be withheld under section 3(a)(1) or 3(a)(3) of the act. If a request to this office is not timely, the information may be withheld only for compelling reasons. Open Records Decision No. 319 (1982); *see* V.T.C.S. art. 6252-17a, § 7(a) (10-day rule regarding requests for attorney general decision). Therefore, we will consider whether the city's lawyer has offered compelling reasons for withholding the report.

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<sup>1</sup>Mr. Dolcefino requested the report as well as other information. We will address the availability of the other information in a separate open records ruling.

<sup>2</sup>I.D. No. 11972 (Carter) and I.D. No. 11853 (McPherson).

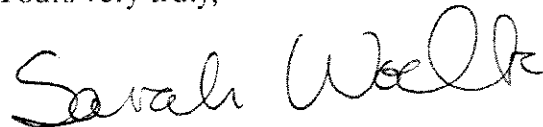
One argument raised is that the information may be withheld under section 3(a)(3) of the act, which allows a governmental body to withhold information related to reasonably anticipated litigation. The city has not demonstrated that litigation is reasonably anticipated. *See* Open Records Decision No. 452 (1986). Therefore, the city may not withhold the report under section 3(a)(3).

Another argument raised is that the information should be withheld under the doctrine of false-light privacy. In Open Records Decision No. 579 (1990), this office determined that section 3(a)(1) of the Open Records Act did not incorporate the false-light branch of privacy law.

The last argument raised is that certain statements summarized in the report should be withheld under the informer's privilege. Those statements are within the scope of the informer's privilege, and the city has offered compelling reasons not to release them. Therefore, we have marked the portions of the report that may be withheld under the informer's privilege. *See* Open Records Decisions No. 377 (1983). The remainder of the document must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-211.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Sarah Woelk".

Sarah Woelk  
Assistant Attorney General  
Opinion Committee

SW/lb

Ref.: ID# 12083, 12099, 12219, 12357

Enclosure: Open Records Decision Nos. 452 (1986), 579 (1990), 377 (1983)

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